

Arun Thomas vs State of Kerala

Arun Thomas vs State of Kerala

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Court : Kerala

Decided On : Mar-31-2023

Judge : Honourable Mr. Justice a. Badharudeen

Appeal No. : Bail Appl./1892/2023

Appellant : Arun Thomas

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A. BADHARUDEEN
FRIDAY, THE 31ST DAY OF MARCH 2023 / 10TH CHAITHRA, 1945
BAIL APPL. NO. 1892 OF 2023 CRIME NO.1656/2022 OF
KOTHAMANGALAM POLICE STATION, ERNAKULAM
PETITIONER/ACCUSED: ARUN THOMAS AGED 31 YEARS ARUN
THOMAS,S/O THOMAS,KAKKANATTU HOUSE, NELLIMATTOM
KARA,KUTTAMANGALAM VILLAGE, NOW RESIDING AT RENTAL
HOUSE OF ROY,KARIMBANACKAL HOUSE,VAYANASALAPPADY
BHAGAM,KUTHUKUZHAY KARA,KOTHAMANGALAM VILLAGE-, PIN -
686693. BY ADVS. AGINOV MATHAPPAN K.SHERIN MOHAN
RESPONDENT/COMPLAINANT: STATE OF KERALA REPRESENTED

BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031.
BY SENIOR PUBLIC PROSECUTOR SRI P.G.MANU THIS BAIL
APPLICATION HAVING BEEN FINALLY HEARD ON 15.03.2023
ALONG WITH B.A.NO.1893/2023, THE COURT ON 31.03.2023 DAY
DELIVERED THE FOLLOWING: B.A.Nos.1892/2023 & 1893/2023 2

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A. BADHARUDEEN
FRIDAY, THE 31ST DAY OF MARCH 2023 / 10TH CHAITHRA, 1945
BAIL APPL. NO. 1893 OF 2023 CRIME NO.1952/2022 OF
KOTHAMANGALAM POLICE STATION, ERNAKULAM
PETITIONER/ACCUSED: ARUN THOMAS AGED 31 YEARS S/O
THOMAS,KAKKANATTU HOUSE, NELLIMATTOM
KARA,KUTTAMANGALAM VILLAGE,NOW RESIDING AT RENTAL
HOUSE OF ROY,KARIMBANACKAL HOUSE,VAYANASALAPPADY
BHAGAM,KUTHUKUZH KARA,KOTHAMANGALAM VILLAGE, PIN -
686693. BY ADVS. AGINOV MATHAPPAN K.SHERIN MOHAN
RESPONDENT/COMPLAINANT: STATE OF KERALA REPRESENTED
BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM,
PIN - 682031. BY SENIOR PUBLIC PROSECUTOR SMT.T.V.NEEMA
THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON
15.03.2023 ALONG WITH B.A.NO.1892/2023, THE COURT ON
31.03.2023 DELIVERED THE FOLLOWING: B.A.Nos.1892/2023 &
1893/2023 3

A. BADHARUDEEN, J.

===== B.A.Nos.1892 & 1893 of 2023
===== Dated this the 31st day of
March, 2023

COMMON ORDER

B.A.No.1892/2023 and B.A.No.1893/2023 have been filed by the common accused, in Crime No.1656/2022 and Crime No.1952 of 2022 respectively of Kothamangalam Police Station, Ernakulam, under Section 439 of the Code of Criminal Procedure and he seeks the remedy of regular bail in these petitions.

2. Heard the learned counsel for the petitioner and the learned Public Prosecutor in detail. Perused the relevant documents form part of the case diary.

3. In Crime No.1656/2022, the prosecution case is that the accused herein, while working as Branch Manager of KLM Axiva Finvest Ltd., collected Rs.6,00,000/- from the defacto complainant B.A.Nos.1892/2023 & 1893/2023 4

one Jeslin Mathews Rajan on 30.06.2021, in the name of the company. Thereafter without recording the same in the documents of the company, he had swindled off the said amount. Pursuant to the above allegations, the above crime was registered alleging commission of offences punishable under Sections 408 and 420 of the Indian Penal Code ('IPC' for short hereinafter).

4. In Crime No.1952/2022, the prosecution case is that the

accused herein, who, was working as Branch Manager of KLM Axiva Finvest Ltd. misappropriated Rs.43,51,685/- by transferring the above amount to the account of gold loan holders and thereafter misappropriated the said sum by cheating and defrauding the defacto complainant. Pursuant to disclosure of the said offence, the above crime alleging commission of offences punishable under Sections 408 and 420 r/w 34 of IPC was registered and same is on investigation.

5. While pressing for regular bail to the petitioner, who has been in custody from 29.01.2023 onwards, the learned counsel for B.A.Nos.1892/2023 & 1893/2023 5

the petitioner would submit that the petitioner is innocent and the allegations are false. According to him, the Company and other co- workers were in inimical terms with the petitioner due to his good performance and leadership quality and, thereby, he has been falsely implicated in these cases without support of any materials. Highlighting the progress of the investigation and custody of the petitioner from 29.01.2023, the learned counsel for the petitioner pressed for grant

of regular bail to the petitioner.

6. The learned Public Prosecutor opposed grant of bail on

the submission that in Crime No.195/2022, the amount involved is Rs.43,51,685/- and the investigating officer could not recover any amount. Similarly, no amount recovered in Crime No.1656/2022 though the prosecution alleges misappropriation of Rs.6 lakh in the said crime. The learned Public Prosecutor would submit that the petitioner cheated and defrauded the financial company and committed breach of trust while misappropriating a total sum of

Rs.49,51,685/-. It is submitted that the investigation is at the B.A.Nos.1892/2023 & 1893/2023 6 extreme primitive stage and immediate release of the petitioner would stall the investigation.

7. On perusal of the case diary, the prosecution case in Crime

No.1952/2022 is to the effect that the petitioner misappropriated Rs.43,51,685/- by committing breach of trust and the same could be gathered prima facie, from the prosecution records. It appears that the petitioner herein transferred the amount to the account of the gold loan account holders without their knowledge and swindled off the

above sum. Similarly, in Crime No.1656/2022 also, the petitioner herein misappropriated Rs.6 lakh after issuing fixed deposit receipt in the name of the defacto complainant and without recording the same in the official books of the firm. Thus the prosecution allegation as to commission of the offences alleged by the prosecution is well made out

prima facie. However, the petitioner has been in custody from 29.01.2023 onwards and the investigation has achieved much progress. Therefore, the petitioner can be released on bail by imposing stringent conditions and one among such conditions is B.A.Nos.1892/2023 & 1893/2023 7 that the petitioners/accused shall not involve in any other offence during the currency of bail and any such event, if reported or came to the notice of this Court, the same alone shall be a reason to cancel the bail hereby granted.

8. Accordingly, these petitions stand allowed and the petitioner can be released on bail in both these crimes on the following conditions: i. Accused/petitioner shall be released on bail on his executing bond for Rs.50,000/- (Rupees Fifty Thousand Only) with two solvent sureties each for the like amount to the satisfaction of the jurisdictional court concerned. ii. Accused/petitioner shall not intimidate the witnesses or

tamper with evidence. He shall co-operate with the investigation and shall be available for trial. He shall visit the Investigating Officer on every Monday in between 9 a.m and 12 noon for a period of two months and also appear before the Investigating Officer as and when directed. B.A.Nos.1892/2023 & 1893/2023 8 iii. Accused/petitioner shall not leave India without prior permission of the jurisdictional court. iv. The petitioner shall surrender his passport, if any, within 7 days from the date of their release, before the trial court. If he has no passports, he shall file an affidavit in this regard on the date of execution of the bond or within 3 days thereafter. v. Accused/petitioner shall not involve in any other offence during the currency of bail and any such event, if reported or came to the notice of this Court, the same alone shall be a reason to cancel the bail hereby granted.
Sd/- (A. BADHARUDEEN, JUDGE) rtr/

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